

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

|                                   |   |                                   |
|-----------------------------------|---|-----------------------------------|
| PGP, LLC,                         | ) |                                   |
|                                   | ) |                                   |
| Plaintiff,                        | ) | Case No. 3:17-cv-00954            |
|                                   | ) |                                   |
| -against-                         | ) | Hon. Jon Phipps McCalla, U.S.D.J. |
|                                   | ) |                                   |
| TPII, LLC, BRYAN KEITH BURNS, and | ) | Hon. Alistair Newbern, U.S.M.J.   |
| HEIDI NEWFIELD                    | ) |                                   |
|                                   | ) |                                   |
| Defendants.                       | ) |                                   |

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JOINT MOTION CONCERNING SCHEDULING CONFERENCE

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Plaintiff PGP, LLC (“PGP”) and Defendants TPII, LLC, Bryan Keith Burns, and Heidi Newfield, by and through their undersigned counsel, hereby respectfully move for an Order granting the following relief: (1) adopting the Case Management Order entered by Magistrate Judge Newbern on October 31, 2017 ([ECF Doc. No. 57] Exhibit 1 hereto) as the scheduling order in this action and canceling the telephonic scheduling conference scheduled for May 11, 2018 at 2:30 CDT as unnecessary or, alternatively (2) adjourning the telephonic scheduling conference from May 11, 2018 to May 29, June 1, or June 4, 2018 to allow additional time for the Court to issue its decision on the parties’ pending motions for summary judgment.

**Basis for the Motion**

On October 30, 2017, counsel for the parties participated in an in-person Initial Case Management Conference (the “Initial Conference”) before Magistrate Judge Newbern. Prior to the Initial Conference, the parties filed a proposed case management order that included a stipulated schedule for conducting pre-trial proceedings in this action. After the Initial Conference, Magistrate Judge Newbern entered the proposed case management order as an Order (*see* Exhibit 1, the “2017 Scheduling Order”). As agreed by the parties, the deadlines for

completion of discovery set forth in the 2017 Scheduling Order are based upon the date that the Court issues a decision on the pending cross-motions for summary judgment.

At the conclusion of the telephonic hearing held on April 11, 2018, the Court (Hon. Jon Phipps McCalla) scheduled a scheduling conference for May 11, 2018 at 2:30 p.m. CDT. It was contemplated at the time of the April 11 hearing that a decision on the pending summary judgment motions would issue several days before the scheduling conference. In preparation for the May 11 conference, counsel for the parties have reviewed the Court's Standing Order concerning Rule 16 Scheduling and Status Conferences. Counsel for the parties have conferred and agreed to request that the Court adopt and/or continue the 2017 Scheduling Order as the controlling pre-trial schedule for the case. The dates previously agreed to and set forth in the 2017 Scheduling Order continue to reflect what the parties believe to be the best approach to scheduling in the action. The parties also believe that, given the agreed dates already ordered, there is no need for the Court to spend additional time and resources on the pre-trial schedule.

In the event that the Court determines that a telephonic scheduling conference is still necessary, the parties respectfully request that the Court reschedule the conference for any one of the dates listed above (May 29, June 1, or June 4, 2018) to allow additional time for entry of the Court's decision on the pending motions for summary judgment. Given that Defendants have not yet interposed an answer (or counter-claims) and that the scope of claims and defenses that will go forward in the case is unclear at this time, the parties agree that it would be most efficient to await the Court's decision prior to undertaking discovery or other proceedings.

Wherefore it is respectfully requested that the Court grant the relief set forth herein, together with such other and further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED:

Dated: May 9, 2018

LOEB & LOEB LLP

NEAL & HARWELL, PLC

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By: /s/ Robert A. Peal

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*Attorneys for Plaintiff PGP, LLC*

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Keith Burns, and Heidi Newfield*

## CERTIFICATE OF SERVICE

I hereby certify that: I have this 9<sup>th</sup> day of May 2018, served all parties in this matter with the foregoing **JOINT MOTION CONCERNING SCHEDULING CONFERENCE** by CM/ECF to counsel of record as follows:

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